


SYNAGRO

Materials Management Agreement

This Agreement made and entered into as of this 22nd day of October 2024 by and between Contractor and Customer.

| | | | | |
|--|---|---------------------|--|--------------------|
| C U S T O M E R | Customer Legal Name: City of North Port | | | |
| | Street Address: 1100 N. Chamberlain Boulevard | | | |
| | City/Town: North Port | County: Sarasota | State: FL | Zip Code: 34286 |
| C O N T R A C T O R | Synagro Legal Name: Charlotte County Bio-Recycling Center, LLC | | | |
| | Street Address: 435 Williams Court, Suite 100 | | | |
| | City/Town: Baltimore | State: MD | Zip Code: 21220 | |
| T E R M | Commencement Date: October 1, 2024 | | Expiration Date: September 30, 2025 | |
| | The "Term" of this Agreement shall be from the Commencement Date up to and including the Expiration Date, unless terminated earlier as provided herein. This Agreement and any extensions shall automatically renew on a year-to-year basis following expiration of the Term, until Contractor or Customer delivers notice to the other Party of its intent to terminate the Agreement. Such notice must be delivered at least 30 days prior to the end of the then-current Term. If Contractor provides Contractor Services to Customer outside of the Term without another written agreement, then such services shall be deemed provided pursuant to the terms of this Agreement (other than the Term) and Customer's request for or acceptance of Contractor Services shall be deemed consent to the terms of this Agreement; no such provision of Contractor Services shall be deemed an agreement to provide any further Contractor Services or extend the term of this Agreement for additional periods. | | | |
| B I L L I N G | Customer Contact Name: City of North Port | | Telephone#: (941) 240-8074 Fax#: (941) 240-8063 | |
| | Address: 1100 N. Chamberlain Boulevard | | Contact Person: Frank Lama | |
| | City / State / Zip Code: North Port, FL 34286 | | Email Address: flama@northportfl.gov | |
| S I G N A T U R E S | CUSTOMER SIGNATURE: | | Date: | |
| | Name and Title: | | | |
| | CITY CLERK to Attest: | | Date: | |
| | Name and Title: | | | |
| S I G N A T U R E S | CITY ATTORNEY to Approve as to Form and Correctness: | | Date: | |
| | Name and Title: | | | |
| | CONTRACTOR SIGNATURE:  | | Date: | |
| | Name and Title: SEAN HEFFERNAN, PROPOSAL COORDINATOR | | 9/20/2024 | |

SCOPE OF SERVICES AND PRICING APPENDIX

Scope of Service.

CUSTOMER WILL UTILIZE CONTRACTOR FOR DISPOSAL OF YARD WASTE
 CUSTOMER WILL PROVIDE THEIR OWN TRANSPORTATION OF YARD WASTE

Customer Materials.

Customer Materials shall consist of the following:

YARD WASTE MAY INCLUDE: grass clipping, branches, tree parts, wood, and/or wood pallets.

YARD WASTE MAY NOT INCLUDE: treated wood, construction debris, trash, metal, concrete/rocks, or any hazardous material as defined by state or federal law, or any hazardous substance.

UNGROUND YARD WASTE (LARGE SIZE):

Maximum 10 inches in diameter/width

Maximum 10 feet in length

Method of Delivery of Customer Materials. The Customer Material shall be delivered to Contractor in the following manner:

The Customer Material shall be delivered to Contractor in the following manner:

1. Must be delivered in walking floor trailers or trailers with dumping capabilities.
2. All vehicles must weigh in/out at the Contractor scale.
3. All drivers must wear reflective vests, safety boots, and safety glasses when on Contractor site.
4. All traffic signs, speed limits, and Contractor operator instruction must be followed (Loaders have the right-of-way)
5. Operating hours are **Monday-Friday 6:30 am - 2:00 pm excluding some holidays** (exceptions can be made ahead of time if necessary)
6. A schedule for delivery must be submitted to the Contractor one week in advance and approved by the Contractor (number of loads per day and which days of the week)

"Customer Facility(ies) "shall mean the following locations where Customer Material(s) are generated or stored:

Not applicable as Customer will be hauling Customer Materials to Contractor

Contractor right to refuse loads. If trucks or containers are loaded by Customer or its agents, Contractor has the right to refuse loads that are not within legal weight restrictions, are defective, or are not filled to mutually agreed-upon minimums or maximums.

PRICE

The Agreement Price(s) shall be as follows, based on the % solids of the in-feed sludge and the volume of sludge to dewater:

| RATE | QUANTITY | UNIT | SERVICE |
|-------------|---------------|------|--|
| \$20.00/ton | 4,500 tons/yr | Ton | Tip Fee cost for disposal of Un-Ground Yard Waste at Contractor Facility |

CPI. All Agreement Prices shall be adjusted as follows:

All Agreement Prices shall be adjusted annually beginning on 10/1/25 based on the Non-Seasonally Adjusted Consumer Price Index established by the United States Department of Commerce, Bureau of Labor Statistics, for Southeast Region with the CPI immediately preceding the Commencement Date being the base index. Said adjustment shall apply to all fees contained herein and shall be based on the following formula:

$$\text{New Price} = (\text{Price Adjustment}) \times \text{First Year Agreement Price}$$

$$\text{Price Adjustment} = 1 + \left(\frac{\text{Current CPI} - \text{Base CPI}}{\text{Base CPI}} \right)$$

Once the CPI is available, the price adjustment shall take effect retroactively, where applicable, as of the dates specified above for price adjustments. No New Price shall ever be lower than any existing current Agreement Price in effect immediately before the annual adjustment.

Fuel Surcharge Adjustment

All Agreement Prices shall be adjusted monthly for a fuel surcharge ("Fuel Surcharge Adjustment") to reflect any increased change in diesel fuel prices, in accordance with the table below, if the cost of retail on-highway diesel fuel (Department of Energy, Energy Information Administration's Gasoline and Diesel Fuel Update Lower Atlantic On-Highway Diesel Fuel Price) is at, or exceeds, \$4.00 per gallon (Base Price).

The Fuel Surcharge Adjustment will be based on the following chart and the Retail On-Highway Diesel Price -Lower Atlantic as published by the U.S. Department of Energy's Energy Information Administration Gasoline and Diesel Fuel Update and will be applied to the then current fixed or unit fee, as applicable. The Fuel Surcharge Adjustment will be no more than once a calendar month beginning with the second calendar month following the Commencement of Services and shall be adjusted as of the first day of each month. Fuel Surcharge Adjustment will then be applied as follows:

| Diesel Price \$/Gallon - Note ¹ | Fuel Surcharge Adjustment % |
|---|-----------------------------|
| < \$(Base Price) | None |
| Base Price to Base Price plus \$0.049 | 0.5% |
| Base Price plus \$0.05 to Base Price plus \$0.099 | 1.0 % |
| Base Price plus \$0.1 to Base Price plus \$0.149 | 1.5% |

For each \$0.05/gallon increase thereafter add 0.5%

EXAMPLE:

Base Price = \$3.01 / Gallon

| Diesel Price \$/Gallon - Note ¹ | Fuel Surcharge Adjustment % |
|--|-----------------------------|
| ≤ \$3.00 (Base Price) | None |
| \$3.01 - \$3.049 | 0.5 % |
| \$3.05 - \$3.099 | 1. % |
| \$3.10 - \$3.149 | 1.5 % |

Note 1 - Fuel Rate based on DOE EIA monthly retail on-highway diesel prices (Lower Atlantic)

GENERAL TERMS AND CONDITIONS

1. **Definitions.** As used in this Agreement:

A. "Affiliate" shall mean any Person which, directly or indirectly, owns or controls, or is under common ownership or control with, or is owned or controlled by, such Person.

B. "Agreement" shall mean this agreement, and each and every exhibit, appendix and schedule attached hereto, and by reference made part of this Agreement.

C. "Agreement Price(s)" shall mean any one or, collectively, all the prices to be paid by the Customer to Contractor for Contractor Services.

D. "Authorizations" means all authorizations, permits, applications, notices of intent, registrations, variances, and exemptions required for the removal, transportation and land application of Customer Materials in compliance with all Laws.

E. Agreement shall consist of the following documents which Customer acknowledges receiving copies of:

1. The Agreement
2. Scope of Service and Pricing Appendix
3. General Terms and Conditions

F. "Contractor Facility" shall mean a facility operated or controlled by Contractor or an Affiliate of Contractor.

G. "Contractor Services" shall be those services described in Scope of Service and Pricing Appendix.

H. "Customer" shall mean the entity identified as Customer in the first paragraph of this Agreement and its permitted successors and assigns.

I. "Customer Material(s)" shall mean the materials generated by or stored at the Customer's Facility which are described in Scope of Service and Pricing Appendix.

J. "Governmental Authority" means any governmental authority including the United States of America and any State, local authority, political subdivision, agency, department, commission, board, bureau, court, tribunal having jurisdiction over this Agreement, Customer Material(s), or Contractor, Customer, or Customer Facility.

K. "Hazardous Materials" means any "petroleum," "oil," "hazardous waste," "hazardous substance," "toxic substance," and "extremely hazardous substance" as such terms are defined, listed, or regulated under Laws.

L. "Intended Use" shall mean any use, placement or disposal of Customer Materials pursuant to this Agreement including by example, land application, composting, deposit in landfill, or incineration.

M. "Laws" means any Authorization and any applicable federal, state, or local law, rule, regulation, ordinance, order, decision, principle of common law, consent decree or order, of any Governmental Authority, now or hereafter in effect.

N. "Non-Conforming Material(s)" shall mean material(s) which

(i) fail(s) to meet the description or characteristics described in Appendices 1 and/or 2, or (ii) are Hazardous Materials, or (iii) contain a concentration of polychlorinated biphenyls equal to or greater than 50 milligrams per kilogram of total solids (on a dry weight basis) or (iii) contains PFOA/PFAS levels in excess of any federal or state guidelines or regulations.

O. "Party" shall mean either Customer or Contractor; "Parties" shall mean Customer and Contractor.

P. "Person" shall mean any partnership, corporation, Governmental Authority, trust or legal entity, as well as a natural person.

Q. "Term" shall mean the term of this Agreement including any extensions, as provided for in the Agreement.

2. **Services.** Contractor shall provide Contractor Services to Customer.

3. **Price and Adjustments.**

A. The Agreement Price(s) for Contractor Services is set forth in Scope of Services and Pricing Appendix.

B. Contractor will have no duty to handle Non-Conforming Materials unless Customer and Contractor mutually agree to terms including cost for the handling of such Non-Conforming Materials on a case-by-case basis. If Contractor discovers material is Non-Conforming after it takes possession, then Customer shall reimburse all costs and expenses of Contractor in handling such Non-Conforming Material until Customer arranges for removal and transportation of such Non-Conforming Material for appropriate processing and disposal, plus 10% of such costs and expenses.

4. **Ownership of Materials.** Customer shall retain all title to and ownership of the Customer Material and Non-Conforming Materials.

5. **Rejection or Revocation of Acceptance of Materials.**

A. Contractor shall have the right to reject any Non-Conforming Material prior to taking possession or revoking its acceptance after taking possession of any Non-Conforming Material, provided that Contractor notifies Customer by telephone or in writing of such rejection of Non-Conforming Materials promptly upon Contractor's discovery thereof. Any such notice of rejection not given initially in writing shall be promptly confirmed in writing to Customer. Contractor shall provide Customer with the documentation used to identify Customer Materials as Non-Conforming, and Customer shall have the right to re-test the Customer Materials.

B. Within twenty-four (24) hours after receipt of notice of rejection of Non-Conforming Material (or such longer period provided that Customer is acting with due diligence). Customer shall in accordance with Laws, arrange for and pay all costs associated with the testing, removal and transport of such Non-Conforming Material for appropriate processing and disposal. If Customer fails to remove Non-Conforming Material(s) within 10 business days of the date Customer is notified by Contractor, then Contractor shall have the right, but not the obligation, to remove, store, handle, transport, store, process and dispose of Non-Conforming Materials and Customer shall reimburse Contractor for all costs and expenses associated therewith, plus 10% of such costs and expenses.

6. **Change in Conditions Affecting Quality of Materials.** Customer shall immediately notify Contractor of changes or irregularities related to the creation, processing or conditions that would reasonably be expected to affect the quality, character or composition of Customer Materials. Customer shall promptly furnish to Contractor any information regarding known or suspected changes in the composition or characteristics of the Customer Materials.

7. **Record Keeping.** In accordance with Florida Statutes, Section 119.0701, Contractor shall comply with all Public Records laws, and shall specifically:

A. Keep and maintain Public Records required by the Customer to perform the Services.

(i) The timeframes and classifications for records retention requirements must be in accordance with the General Records Schedule GS1-SL for State and Local Government Agencies. (See <https://dos.fl.gov/library-archives/records-management/general-records-schedules/>.)

(ii) "Public Records" means and includes those items specified in Florida Statutes, Section 119.011(12), as amended from time to time, and currently defined as: All documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business with Customer. Contractor's records under this Agreement include but are not limited to, supplier/subcontractor invoices and contracts, project documents, meeting notes, e-mails and all other documentation generated during this Agreement.

B. Upon request from Customer's custodian of Public Records, provide Customer, at no cost to Customer, with a copy of the requested Public Records or allow the Public Records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided for by Florida and/or local law. All Public Records kept electronically must be provided to Customer upon request from Customer's custodian of Public Records in a format that is compatible with the information technology systems of Customer.

C. Ensure that Public Records that are exempt or confidential and exempt from Public Records disclosure requirements are not disclosed except as authorized by law for the duration of the Agreement term and, if Contractor does not transfer the Public Records to Customer following completion of the Agreement, for the time period specified in General Records Schedule GS1-SL for State and Local Government Agencies.

D. Upon completion of the Agreement, transfer to Customer, at no cost to Customer, all Public Records in Contractor's possession or keep and maintain Public Records required by Customer to perform the Services. If Contractor transfers all Public Records to Customer upon completion of the Agreement, Contractor shall destroy any duplicate Public Records that are exempt or confidential and exempt from Public Records disclosure requirements. If Contractor keeps and maintains Public Records upon the completion of the Agreement, Contractor shall meet all applicable requirements for retaining Public Records.

E. IF THE CONTRACTOR HAS QUESTIONS REGARDING THE

APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT CUSTODIAN OF PUBLIC RECORDS AT 4970 CITY HALL BOULEVARD, NORTH PORT, FLORIDA 34286, TELEPHONE: (941) 429-7056 OR (941) 429-7270; E-MAIL:

publicrecordsrequest@cityofnorthport.com

8. Terms of Payment. In accordance with the Local Government Prompt Payment Act, Florida Statutes Sections 218.70, *et seq.*, Customer's payments shall be due forty-five (45) days after the date specified in Florida Statutes Section 218.73.

9. Default Termination.

A. In the event a Party seeks to terminate this Agreement because the other Party has failed to perform one or more of its material obligations hereunder, then the non-defaulting Party shall give a default notice to the defaulting party. Such default notice shall list with reasonable detail the nature of the default. Unless otherwise stated in Subsection B below, a defaulting Party shall have a right to cure a default within 10 days. If the defaulting Party fails to cure the default within 10 days after the receipt of the default notice, then this Agreement may be terminated by the non-defaulting party by delivery of notice of termination, effective on the termination date stated in such termination notice.

B. Notwithstanding any provision herein to the contrary, Contractor may immediately terminate this Agreement upon notice to Customer if:

- (i) Customer fails to make full, timely payment as provided for in Section 8. of this Agreement;
- (ii) there is a change in or to the interpretation of any Laws which increases Contractor's risk or cost, or which would serve to delay Contractor's performance of Contractor Services;
- (iii) Contractor reasonably determines that performing Contractor Services will cause personal injury, or damage to a Party's facilities, equipment or operation, or will cause Contractor to be in violation of Laws, or will produce or cause to be produced a process byproduct that is classified as Hazardous Material(s); or
- (iv) Customer fails to provide the NANI or NANI Equivalent as provided for in Section 29.A.4.b. of this Agreement.

10. Non-Default Termination.

A. This Agreement may be terminated with or without cause by the Customer's City Manager in whole or in part whenever the City Manager determines it is in the Customer's best interest. Any such termination shall be effected by the delivery to the Contractor of a written notice of termination at least thirty (30) days before the date of termination, specifying the extent to which performance of the work under the Agreement is terminated and date upon which such termination becomes effective. Contractor will be paid only for Services performed up to the termination. Under no circumstances shall Customer make any payment to Contractor for Services that have not been performed or Services that are performed subsequent to the termination date.

B. Non-appropriation. The obligations of Customer to fulfill financial obligations of any kind pursuant to any and all provisions of this Agreement, or any subsequent agreement entered into pursuant to this Agreement or referenced herein, to which Customer is a party, are subject to the provisions of Florida Statutes Section 166.241, as may be amended from time to time, regardless of whether a particular obligation has been expressly so conditioned. Because funds are appropriated annually by the Customer's City Commission on a fiscal year basis, Customer's legal liability for the payment of any costs will not arise until appropriations for such costs are approved for the applicable fiscal year by Customer's City Commission (nor will such liability arise if a request for such appropriations is excluded from the budget approved by the City Commission). Notwithstanding the foregoing, no officer, employee, director, member or other natural person or agent of Customer will have any personal

liability in connection with the breach of the provisions of this Section or in the event of a default by Customer under this Section. This Agreement does not constitute an indebtedness of the City of North Port nor an obligation for which the City of North Port is obligated to levy or pledge any form of taxation or for which the City of North Port has levied or pledged any form of taxation.

11. Indemnification.

A. TO THE EXTENT PERMITTED BY FLORIDA LAW, CONTRACTOR ASSUMES ALL LIABILITY FOR, AND RELEASES AND AGREES TO DEFEND, INDEMNIFY, PROTECT, AND HOLD HARMLESS CUSTOMER, ITS COMMISSIONERS, OFFICERS, AGENTS, AND EMPLOYEES, FROM ALL LIABILITIES, FINES, CLAIMS, ASSESSMENTS, SUITS, JUDGMENTS, DAMAGES, LOSSES AND COSTS, INCLUDING CONSEQUENTIAL, SPECIAL, INDIRECT, AND PUNITIVE DAMAGES, (INCLUDING, BUT NOT LIMITED TO, REASONABLE ATTORNEYS' FEES AND COURT COSTS, WHETHER SUCH FEES AND COSTS ARE INCURRED IN NEGOTIATIONS, AT THE TRIAL LEVEL OR ON APPEAL, OR IN THE COLLECTION OF ATTORNEYS' FEES), ARISING OUT OF ANY ACTS, ACTIONS, BREACHES, NEGLIGENCE OR OMISSIONS OF THE CONSULTANT, OR CONSULTANT'S OFFICERS, EMPLOYEES, AGENTS, SUBCONTRACTORS, SUB-CONSULTANTS, AND OTHER PERSONS EMPLOYED OR UTILIZED BY CONTRACTOR IN THE PERFORMANCE OF, OR THE FAILURE TO PERFORM, THE AGREEMENT. THE AGREEMENT DOES NOT CONSTITUTE A WAIVER OF SOVEREIGN IMMUNITY OR CONSENT BY CUSTOMER OR ITS SUBDIVISIONS TO SUIT BY THIRD PARTIES.

B. CUSTOMER MUST PROVIDE ALL AVAILABLE INFORMATION AND ASSISTANCE THAT CONTRACTOR MAY REASONABLY REQUIRE REGARDING ANY CLAIM. IN THE EVENT OF A CLAIM, CUSTOMER MUST PROMPTLY NOTIFY CONTRACTOR IN WRITING BY PREPAID CERTIFIED MAIL (RETURN RECEIPT REQUESTED) OR BY DELIVERY THROUGH ANY NATIONALLY RECOGNIZED COURIER SERVICE (SUCH AS FEDERAL EXPRESS OR UPS) WHICH PROVIDES EVIDENCE OF DELIVERY, AT THE ADDRESS PROVIDED FOR RECEIPT OF NOTICES IN THIS AGREEMENT.

C. THE INSURANCE COVERAGE AND LIMITS REQUIRED IN THIS AGREEMENT MAY OR MAY NOT BE ADEQUATE TO PROTECT CUSTOMER AND SUCH INSURANCE COVERAGE WILL NOT BE DEEMED A LIMITATION ON CONTRACTOR'S LIABILITY UNDER THE INDEMNITY PROVIDED IN THIS SECTION. IN ANY PROCEEDINGS BETWEEN THE PARTIES ARISING OUT OF OR RELATED TO THIS INDEMNITY PROVISION, THE PREVAILING PARTY SHALL BE REIMBURSED ALL COSTS, EXPENSES AND REASONABLE ATTORNEY FEES THROUGH ALL PROCEEDINGS (AT BOTH TRIAL AND APPELLATE LEVELS).

D. NOTHING IN THIS AGREEMENT SHALL BE DEEMED TO AFFECT THE RIGHTS, PRIVILEGES, AND IMMUNITIES OF CUSTOMER AS SET FORTH IN FLORIDA STATUTES SECTION 768.28, AS MAY BE AMENDED.

E. THE TERMS OF THIS SECTION SURVIVE THE TERMINATION OF THIS AGREEMENT.

12. Non-Discrimination. Customer does not discriminate on the basis of race, color, national origin, sex, age, disability, family, or religious status in administration of its programs, activities, or services. Contractor shall not administer this Agreement in an unlawfully discriminatory manner, nor deny participation in or the benefits of same to any individual based on that individual's race, color, national origin, sex, age, disability, family or religious status, marital status, sexual orientation, gender identity or expression, or physical characteristic.

13. Compliance with Laws. Unless otherwise specifically provided in this Agreement, Contractor shall comply with Laws directly regulating Contractor Services and Customer shall comply with all Laws imposed upon.

14. Physical Damage Responsibility; Insurance.

A. Contractor shall provide workers compensation insurance for all its employees providing services under this Agreement with a limit of \$1,000,000. Contractor's liability and out-of-pocket expenses is capped at the insurance provided in this Agreement.

B. Contractor shall provide commercial general liability insurance to cover the liabilities of Contractor arising out of the Contractor Services with limits of one million dollars (\$1,000,000) for each claim, one million dollars (\$1,000,000) products aggregate and two million dollars (\$2,000,000) general aggregate. Such insurance

shall provide that coverage shall not be canceled without thirty (30) days prior notice to Contractor and Customer, or ten (10) days' notice in the event that such coverage is cancelled for non-payment. Contractor shall provide evidence of said insurance, in the form of an insurance certificate, within thirty (30) days from the date hereof. Said certificate shall name Customer as an additional insured.

C. Contractor shall provide general liability and property damage insurance to cover the liabilities of Contractor arising out of the use of vehicles in the performance of Contractor Services with a combined single limit of one million dollars (\$1,000,000), with an umbrella policy of five million dollars (\$5,000,000).

15. Force Majeure.

A. Should performance of any obligation created under this Agreement become illegal or impossible by reason of:

1. A strike or work stoppage, unless caused by a negligent act or omission of any Party;
2. An act of God, tornado, hurricane, flood, sinkhole, fire, explosion, landslide, earthquake, epidemic, pandemic, quarantine, pestilence, or extremely abnormal and excessively inclement weather;
3. An act of a public enemy, act of war, terrorism, effect of nuclear radiation, blockage, insurrection, riot, civil disturbance, state of martial law, or national or international calamity;
4. A declared emergency of the federal, state, or local government; or
5. Any other like event that is beyond the reasonable control of the non-performing Party;

then the performance of any such obligation is suspended during the period of, and only to the extent of, such prevention or hindrance, provided that:

(i) The non-performing Party provides written notice within five (5) days of the event of *force majeure*, describing the event in sufficient detail, including but not limited to: the nature of the occurrence, a good faith estimate of the duration of the delay, proof of how the event has precluded the non-performing Party from performing, and the means and methods for correcting the delay; and continues to furnish timely reports of all actions required for it to commence or resume performance of its obligations under this Agreement;

(ii) The excuse of performance is no greater in scope or duration than required by the event of *force majeure*;

(iii) No obligations of either Party that arose before the *force majeure* are excused as a result of the event of *force majeure*; and

(iv) The non-performing Party uses all reasonable diligence to remedy its inability to perform.

B. Economic hardship of a Party does not constitute an event of *force majeure*. A Party will not be excused from performance due to forces that it could have reasonably prevented, removed, or remediated prior to, during, or immediately after their occurrence.

C. The non-performing Party's affected obligations under this Agreement will be temporarily suspended during, but not longer than, the continuance of the event of *force majeure* and a reasonable time thereafter as may be required to commence or resume performance of its obligations. Notwithstanding the above, performance shall not be excused under this Section for a period exceeding two (2) months, provided that in extenuating circumstances, Customer may excuse performance for a longer term.

D. The term of the Agreement will be extended by a period equal to that during which the non-performing Party's performance is suspended under this Section.

16. Representation of Authority. Each person signing this Agreement represents and warrants that he or she is duly authorized and has legal capacity to execute and deliver and perform this Agreement. Each Party represents and warrants to the other that the execution and delivery of the Agreement and the performance of such Party's obligations hereunder have been duly authorized and that the Agreement is a valid and legal agreement binding on such Party and enforceable in accordance with its terms.

17. Survival of Obligations. Notwithstanding the expiration or sooner termination of this Agreement, any duty or obligation which has been incurred and which has not been fully observed, performed and/or discharged, and any right, conditional or unconditional, which has been created and has not been fully enjoyed, enforced and/or satisfied, shall survive such expiration or termination until such duty or obligation has been fully observed, performed and/or discharged and such right has been fully enjoyed, enforced and/or satisfied.

18. Entire Agreement. This Agreement constitutes the entire agreement of the Parties with respect to the subject matter hereof and supersedes all prior agreements and understandings, both written and verbal, between the Parties with respect to the subject matter hereof.

19. Counterparts. This Agreement *may* be executed in counterparts, which together shall constitute one and the same contract. The Parties may execute more than one copy of this Agreement, each of which shall constitute an original.

20. Assignment. This Agreement shall be binding upon and inure to the benefit of the Parties thereto and their successors and permitted assigns. The Agreement nor any right or responsibility herein may not be assigned by either Party without the prior written consent of the other Party, which consent shall not be unreasonably withheld or delayed.

21. Modification. This Agreement may not be amended, altered or modified except in writing signed by the Parties hereto.

22. Governing Law, Venue Selection. This Agreement and the rights, obligations, and remedies of the Parties under this Agreement shall be governed by and construed under the laws of the State of Florida. The exclusive venue for any legal or judicial proceeding in connection with the enforcement or interpretation of this Agreement is the Circuit Court of the Twelfth Judicial Circuit in and for Sarasota County, Florida or the United States District Court for the Middle District of Florida, as applicable.

23. No Third-Party Liability. Neither this Agreement nor any Subcontract is intended to give rise to or recognize any third-party beneficiary to this Agreement.

24. Partial Invalidity. If any provision of this Agreement is determined to be invalid, illegal or unenforceable by a court of competent jurisdiction for any reason, that provision shall be deleted from this Agreement and such deletion shall in no way affect, impair, or invalidate any other provision of this Agreement, unless it was material to the consideration for the performance required. If a provision is deleted which is not material to such consideration, the remaining provisions shall be given the force and effect originally intended.

25. Consent to Breach Not Waiver. No term or provision hereof shall be deemed waived and no breach excused, unless such waiver or consent is in writing and signed by the Party claimed to have waived or consented. No consent by any Party to, or waiver of, a breach by the other Party shall constitute consent to, waiver of, or excuse of any other different or subsequent breach. No course of conduct or series of dealings shall constitute a waiver hereunder.

26. Notice. Except as otherwise specifically provided in this Agreement, all notices must be given in writing sent by recognized overnight courier or registered or certified US mail, postage prepaid, return receipt requested, addressed listed on the first page and with additional copies of any notice sent to:

Contractor _____ 435 Williams Court, Suite

100
Baltimore, MD 21220
Attn: Legal Manager

Customer _____
City of North Port, Florida
Attn: City Manager
4970 City Hall Boulevard
North Port, Florida 34286

AND

City of North Port, Florida
Attn: City Attorney
4970 City Hall Boulevard
North Port, Florida 34286

Notice shall be sent to the referenced persons and addresses unless the Parties are otherwise notified in writing of a change in the name or address of the person to be notified.

27. Consequential Damages. In no event shall Contractor, its affiliated corporations and Affiliates or its and their directors, officers, employees or any of its subcontractors be liable for any incidental, indirect, special, punitive, economic or consequential damages, suffered or incurred by Customer or any of its agents or contractors as a result of Contractor's performance or non-performance of services pursuant to this Agreement. In no event shall Contractor's liability hereunder exceed the value of the payments to Contractor under this Agreement, regardless of legal theory.

28. Drafting Responsibility. Neither Contractor nor Customer shall be considered the drafter of this Agreement, and any ambiguities herein shall not be construed against either Contractor or Customer, both having participated in the drafting of this Agreement.

29. **Customer Materials.** Customer represents and warrants the following with respect to the quality of Customer Materials:

A. Biosolids.

1. **Hazardous Materials.** Customer will not provide Hazardous Materials to Contractor.
2. **Polychlorinated Biphenyls.** Customer Materials shall not contain a concentration of polychlorinated biphenyls (PCB's) equal to or greater than 50 milligrams per kilogram (dry weight basis), nor shall Customer Materials violate more stringent state or local standards, where applicable.
3. **Suitability of Materials for Intended Use.** All Customer Materials are suitable for their Intended Use and the qualities and characteristics of Customer Materials meet or exceed the minimum requirements under Laws for Intended Use.
4. **Land Application of Biosolids.** If land application is an Intended Use of Customer Materials, the following shall apply:
 - a. Customer agrees to provide Contractor with Customer Materials that meet federal, state and local land application criteria at the time they are released to Contractor. Where Contractor Services include pathogen reduction requirements and/or vector attraction reduction, Customer is not obligated to meet pathogen and/or vector attraction reduction requirements.
 - b. Customer shall provide Contractor documentation that Customer's biosolids meet 40 CFR PART 503, state and local land application quality criteria with respect to the three biosolids quality criteria (i.e., metals content, pathogen reduction requirements, and vector attraction reduction requirements) unless Contractor has specifically agreed otherwise as part of the Contractor Services described below. This information is to be supplied to Contractor using a Notice and Necessary Information ("NANI") form or NANI Equivalent within 45 days after the end of the Customer's monitoring period based on the biosolids testing frequency in 40 CFR 503.16. "NANI Equivalent" shall mean lab results which clearly show the three biosolids quality criteria are met (e.g. metal test results, fecal coliform test results, SOUR test results). If Customer has more than one Customer Facility, a NANI Form or NANI Equivalent is required for each Customer Facility at which Contractor Services are being provided. If Customer uses more than one treatment process within Customer Facility, (for example, customer produces anaerobically digested and lime stabilized biosolids) a NANI form or NANI Equivalent is required for each treatment process used by the Customer. If Customer has stored biosolids in more than one location/structure within Customer Facility produced over different time periods or tested separately due to its unique characteristics or Customer's desired sampling program, a NANI form or NANI Equivalent are required for each Customer Facility storage location/structure. Contractor shall have the right to rely upon any information or certification provided by Customer and shall not have any independent duty to investigate or inquire regarding the subject matter of Customer's certification or of the information which Customer provides to Contractor. Where Contractor Services include pathogen reduction requirements, the NANI Form or NANI Equivalent provided Customer is not required to document compliance with pathogen reduction requirements by Law. Where Contractor Services include vector attraction reduction, the NANI Form or NANI Equivalent provided by Customer is not required to document compliance with vector attraction reduction requirements.
 - c. If Customer fails to provide the NANI Form or NANI Equivalent when required by Law, Contractor shall have the immediate right, but not the obligation, to suspend or terminate Contractor Services or this Agreement. Customer shall be liable for all additional costs and expenses arising out of such suspension or termination.
 - d. Contractor will land apply Customer Materials based on the most current NANI Form or NANI equivalent test results provided to the Contractor.
5. **Disposal of Biosolids into Landfill.** Where Customer Materials are to be disposed of in landfill(s), Customer Materials must meet the requirements in 40 CFR Part 258 (e.g., pass paint filter test and be non-hazardous per 40 CFR Part 261) and any applicable state requirements.

B. Industrial Residuals:

1. **Hazardous Materials.** Customer will not provide Hazardous Materials to Contractor.
2. **Polychlorinated Biphenyls.** Customer Materials shall not contain a concentration of polychlorinated biphenyls (PCB's) equal to or greater than 50 milligrams per kilogram (dry weight basis), nor shall Customer Materials violate more stringent state or local standards, where applicable.

3. **Suitability of Materials for Intended Use.** All Customer Materials are suitable for their Intended Use and the qualities and characteristics of Customer Materials meet or exceed the minimum requirements under Laws for Intended Use.

4. **Cadmium.** Customer will provide Contractor with the total cadmium (Cd) concentration of the residuals in milligrams per kilograms (mg/kg) dry weight with the frequency required by Laws.

5. **Disease Vectors.** Customer Materials shall not attract disease vectors that endanger public health.

6. **Disposal of Biosolids into Landfill.** Where Customer Materials are to be disposed of in landfill(s), Customer Materials must meet the requirements in 40 CFR Part 258 (e.g., pass paint filter test and be non-hazardous per 40 CFR Part 261) and any applicable state requirements.

7. **Additional Customer Materials (if any):** N/A

30. **Ethics Reporting.** In the event that you become aware of unethical or illegal behavior by any Synagro employee, please report such behavior to Synagro through its third-party hotline at 888-577-9486. Repots may be anonymous. You may also report it online at EthicsPoint - Synagro Technologies.

31. **Non-exclusivity.** This Agreement is non-exclusive, and Customer may enter similar agreements with multiple similar entities. Contractor is assured no minimum amount of services or fees under this Agreement. Customer reserves its option to perform the same or similar services in-house or through others at its sole discretion.

32. **Independent Contractor.**

A. The relationship between Contractor and Customer is that of an independent contractor. Nothing contained herein will be deemed or construed as creating the relationship of employer-employee, principal-agent, partnership, or joint venture between the Parties. It is understood and agreed that no provision contained herein, or any acts of the Parties, will be deemed to create any relationship between them other than that as detailed herein. Contractor retains sole and absolute discretion and judgment in the manner and means of carrying out the services, within the established rules and regulations of Customer and the Law.

B. Contractor is not entitled to any salary or benefits other than the compensation described in Pricing Appendix of this Agreement. Contractor must provide, at their sole expense, all supplies and materials needed for the Contractor Services under this Agreement.

33. **Remedies.** Customer's rights and remedies set forth in this Agreement are not exclusive and are in addition to any other rights and remedies available to it in Law or in equity.

34. **Subcontractors.** As applicable, Contractor must furnish Customer with a list of all subcontractors and suppliers performing services under this Agreement prior to any payments against the Agreement. All subcontractors are subject to Customer preapproval. No change in subcontractors or suppliers shall be made without written consent and approval from Customer. All subcontractors shall comply with Florida Statutes Section 448.095, for registration and use of the E-Verify system operated by the United States Department of Homeland Security. If Contractor's assignee or subcontractor fails to perform in accordance with the terms of its assignment or subcontract, Contractor shall complete or pay to have completed the work which the assignee or subcontractor failed to complete at no additional cost to Customer. Additionally, in the event of any breach or noncompliance by any of Contractor's assignee(s) or subcontractor(s), Contractor shall be directly and wholly responsible for any such breach or noncompliance and shall bear all attributable costs and liabilities.

35. **Headings.** The descriptive titles appearing in each respective section are for convenience only and are not a part of this Agreement and do not affect its construction.

36. **Scrutinized Companies.** By executing this Agreement and each and every renewal hereof (if renewal is separately provided for herein), pursuant to section 287.135, Florida Statutes, Contractor certifies, represents, and warrants that: (a) it is not on the Scrutinized Companies that Boycott Israel List, and (b) it is not engaged in a Boycott of Israel, and that all such certifications were true at the time it submitted its bid or proposal for this Agreement, as of the Commencement Date of this Agreement, and as of the effective date of any renewal of this Agreement. Notwithstanding anything contained in this Agreement to the contrary, Customer may terminate this Agreement immediately if: (1) Contractor is found to have submitted a false certification regarding (a) or (b) above in accordance with Florida Statutes Section 287.135, or (2) Contractor has been placed on the Scrutinized Companies that Boycott Israel List or is or has been engaged in a Boycott of Israel. Such termination shall be in addition to any and all remedies available to Customer at Law or in equity. The term "Boycott of Israel" used in this Section is defined as in, and the Scrutinized Companies that Boycott Israel List is the list maintained pursuant to, Florida Statutes Section 287.135.

37. **E-verify.** Contractor shall comply with all applicable provisions of Florida Statutes Sections 448.09 and 448.095, as may be amended. The definitions in Florida Statutes Section 448.095(1), as may be amended, apply to this Section of the Agreement. Contractor shall register with and use the U.S. Department of Homeland Security's E-Verify system to verify the work authorization status of all

employees of Contractor. Contractor may not enter into a contract with a subcontractor to perform work under this Agreement unless and until the subcontractor registers with and uses the E-Verify system. If Contractor enters into a contract with a subcontractor to perform work under this Agreement, Contractor must obtain a properly executed affidavit from the subcontractor stating that the subcontractor does not employ, contract with, or subcontract with an unauthorized alien. Contractor must maintain copies of all such affidavits for the duration of this Agreement. Customer may terminate this Agreement for cause if Customer determines that Contractor or Contractor's subcontractor has not complied with any applicable provision of Florida Statutes Sections 448.09 or 448.095, as may be amended. Customer will terminate this Agreement for cause if Customer has a good faith belief that Contractor has knowingly violated Florida Statutes Subsection 448.09(1), as may be amended. If Customer has a good faith belief that a subcontractor knowingly violated Florida Statutes Section 448.09(1), as may be amended, but Customer determines that Contractor otherwise complied with Florida Statutes Section 448.09(1), as may be amended, Customer will notify Contractor as such, and Contractor must immediately terminate Contractor's contract with said subcontractor. If this Agreement is terminated under Florida Statutes Section 448.095(c): (a) such termination is not a breach of this Agreement by Customer and may not be considered as such; (b) Contractor may not be awarded a public contract for at least one (1) year after the date on which the Agreement is terminated; and (c) Contractor is liable for any additional costs incurred by Customer as a result of the termination of the Agreement.

38. Foreign Countries of Concern. Pursuant to Florida Statutes Section 286.101, as may be amended, Contractor shall disclose any current or prior interest of, any contract with, or any grant or gift received from a Foreign Country of Concern, as defined below, if such interest, contract, or grant or gift has a value of \$50,000 or more and such interest existed at any time or such contract or grant or gift was received or in force at any time during the previous five (5) years. For purposes of this section, "Foreign Country of Concern" means the People's Republic of China, the Russian Federation, the Islamic Republic of Iran, the Democratic People's Republic of Korea, the Republic of Cuba, the Venezuelan regime of Nicolas Maduro, or the Syrian Arab Republic, including any agency of or any other entity under significant control of such foreign country. Contractor's disclosure shall include the name and mailing address of the disclosing entity, the amount of the contract or grant or gift or the value of the interest disclosed, the applicable foreign country of concern and, if applicable, the date of termination of the contract or interest, the date of receipt of the grant or gift, and the name of the agent or controlled entity that is the source or interest holder. Contractor represents that within one (1) year before proposing any contract to Customer, Contractor provided a copy of such disclosure to the Florida Department of Financial Services.

39. Notice: Florida Statutes Section 287.05701, as may be amended, states in pertinent part as follows:

"287.05701 Prohibition against considering social, political, or ideological interests in government contracting.—

(1) As used in this section, the term "awarding body" means:

(a) For state contracts, an agency or the department.

(b) For local government contracts, the governing body of a county, a municipality, a special district, or any other political subdivision of the state.

(2)(a) An awarding body may not request documentation of or consider a vendor's social, political, or ideological interests when determining if the vendor is a responsible vendor.

(b) An awarding body may not give preference to a vendor based on the vendor's social, political, or ideological interests.

